

## HB 404 Addresses Virtual Meetings, Virtual Learning, and Excess CARES Funding

By: Katie Caprez & Sherri Warner

In March, the General Assembly made temporary changes to Ohio's Open Meetings Act, which governs the practices of public bodies.<sup>1</sup> House Bill 197 allowed such bodies (including school boards, city councils and others) to hold and attend meetings, and conduct hearings by means of teleconference, video conference, or any other similar electronic technology.

At that time, Ohio leaders did not anticipate that pandemic conditions would persist far beyond autumn. Consequently, many of HB 197's provisions were passed with a December 2020 expiration date. With December approaching, COVID-19 case numbers rising, and Ohio's state of emergency still in effect, the need for an extension became evident.

The solution? Amended House Bill 404, which extends the temporary authorizations that public bodies received in HB 197 to meet remotely, now with a July 1, 2021 expiration date. HB 404 contains an emergency clause, allowing it to become effective upon the Governor's signature.

The bill, which originally referred only to the meetings of state university trustees, was also amended to tie up loose ends regarding the state administration of federal CARES funds and COVID-created crises in K-12 education.

Current law requires local subdivisions receiving CARES Act funding have the money encumbered by November 20th or return the money to their county treasury. County Treasurers who receive money are to reallocate that money within the county based on a formula set forth in law. HB 404 requires county treasurers return the state treasury CARES funding they are unable to reallocate to other subdivisions.

The bill addresses several matters which have concerned the state's school district superintendents since the pandemic began, including licensure requirements, employee evaluations, and perhaps most importantly, state testing requirements.

HB 404 has been passed by both the Ohio Senate and Ohio House, and now heads to Governor DeWine for his signature.

The table below summarizes the provisions of HB 404 affecting Ohio's primary and secondary schools:

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<sup>1</sup> Per ORC 121.22, a "public body" includes: "[a]ny board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution; [and any committee or subcommittee of such a body]." It also includes a court of jurisdiction of a sewer and water district.

Affected Matter	Change Description	Affected Dates
Licensure	All licenses, permits, certificates, commissions, charters, registrations, cards or other similar authorities issued by state agencies or political subdivisions remain valid until July 2021.	Licenses which expire on or before April 1, 2021 are valid until July 1, 2021
Principal Evaluations	Evaluations for principals for the 2021-2022 school year may be completed without student growth measures, if the board elects to complete the performance evaluation.	2020-2021 school year
School Employee Evaluations (General)	<p>Evaluations for teachers, principals and school counselors for the 2021-2022 school year shall not reference value-added data or any other metric used to evaluate positive student outcomes.</p> <p>-----</p> <p>School boards are authorized to refrain from completing performance evaluations for teachers, administrators, school counselors and superintendents if the board determines that to do so would be “impossible or impracticable.”</p>	<p>2021-2022 school years (previous law authorized this for 2020-2021)</p> <p>-----</p> <p>2020-2021 school year</p>
State Testing/ Health Screening Requirements and “Qualifying Students”	<p>The state may not penalize schools for failing to administer kindergarten readiness, diagnostic, or third-grade reading assessments to qualifying students.</p> <p>Schools may elect to administer assessments if they desire.</p> <p>The state may not penalize public schools for failing to administer kindergarten or first-grade health screenings to individuals who were qualifying students prior to November 1, 2020.</p> <p><i>“Qualifying students” are those who are quarantining, <u>or</u> who are unable to attend school due to the student (or the student’s family) being medically compromised, <u>or</u> those residing in an area subject to a stay-at-home order, <u>or</u> who are receiving instruction</i></p>	2020-2021 school year

	<i>primarily through a remote learning model which does not allow for remote administration of otherwise-required assessments.</i>	
Teacher Evaluation Pilot Program	School districts which did not participate in the 2019-2020 teacher evaluation pilot program may continue to evaluate teachers on a two- or three-year evaluation cycle, even if the district completes an evaluation for those teachers in 2020-2021 without using a student growth measure.	2020-2021 school year
Teacher Ratings	When establishing ratings for the 2021-2022 school year, a teacher whose 2020-2021 school year evaluation did not contain a student growth measure must remain at the same point in the teacher's evaluation cycle and retain the evaluation rating given to that teacher in 2019-2020.	2021-2022 school years (previous law authorized this for 2020-2021)
Seamless Summer Food Program Regulation	The Director of Agriculture may exempt a school from "food processing establishment" regulations if the school has been issued a food service operation license and is transporting food for USDA summertime food programs.	Through July 1
College Credit Plus (CCP)	The Chancellor of Higher Education is authorized to extend, waive, or modify CCP requirements.	2020-2021 and 2021-2022 school years
Licensure	All licenses, permits, certificates, commissions, charters, registrations, cards or other similar authorities issued by state agencies or political subdivisions	Licenses which expire on or before April 1, 2021 are valid until July 1, 2021
Community School Transportation	Community schools are permitted to accept responsibility to provide or arrange for transportation of students in accordance with continuing law for the 2020-2021 school year during this school year (rather than January 1 of the preceding year, as usually required).	2020-2021 school year (Community school can accept responsibility by December 31, 2020)

	Community schools which accept this responsibility will receive state transportation funding for the entire school year.	
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If you have any questions or concerns, please contact any of the listed professionals.

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